



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,587	03/29/2004	Osamu Nakamura	042234	9493

38834 7590 04/18/2007
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

EXAMINER

NAKARANI, DHIRAJLAL S

ART UNIT	PAPER NUMBER
----------	--------------

1773

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/810,587	Applicant(s) NAKAMURA ET AL.	
	Examiner D. S. Nakarani	Art Unit 1773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5,7,10 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5,7,10 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. The amendment filed January 24, 2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Lines 4-5 of the amended paragraph beginning page 13, line 8, the phrase "a copolymer with (meth)acrylic amide and a monomer copolymerizable therewith" is a new matter because the specification as originally filed fail to provide support for monomer copolymerizable with (meth)acrylic amide. Applicants have not pointed-out where the support for the added subject matter can be found in the originally filed specification. In addition, the phrase "polymer of (meth)acrylic ethyl ester ----- ammonium salts of (meth)acrylic acid" is unclear and cannot be understood. It is not clear whether applicants are trying to claim homopolymer of recited monomers or copolymer of (meth)acrylic acid with recited monomers. Clarification and/or correction requested.

Applicant is required to cancel the new matter in the reply to this Office Action.

3. Claims 1, 5, 7, 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 1773

Claim 1, lines 17-20, the markush group members "(meth)acrylic ethyl esters", "(meth)acrylic butyl esters", "a copolymer with (meth)acrylic amide", "polymers of alkali metals and ammonium salts of (meth)acrylic acid" renders claims confusing and indefinite. As per limitation in lines 7-8, claim requires "(meth)acrylic acid polymer (b2) having a degree of neutralization of 3-15%". Polymers of afore said markush group members do not contain acid groups and/or acid groups are fully neutralized. Therefore it is not clear how one can neutralize these polymers to a required degree of neutralization. Clarification and/or correction requested.

The phrase "a copolymer with (meth)acrylic amide" renders claims indefinite in absence of specifying other monomer polymerized with (meth)acrylic amide to form copolymer.

The phrase "polymers of alkali metals and ammonium salts of (meth)acrylic acid" renders claims indefinite. It is not clear from the claim language whether applicants are trying to claim copolymer of alkali metal salt of (meth)acrylic acid and ammonium salts of (meth)acrylic acid or polymer of alkali metals? If applicants are trying to claim polymers of alkali metals, then how applicants are polymerizing alkali metals?

Clarification requested and/or correction requested.

The words "polymers", "esters", "metals" and "salts" should be changed to the words - - "polymer", "ester", "metal" and "salt" - -.

4. Applicant's arguments filed January 24, 2007 have been fully considered but they are not persuasive. In reference to objection to the specification and rejection of claims

Art Unit: 1773

under 35 USC 112, second paragraph applicants mainly argue that one skilled in the art would readily know which monomers would be copolymerizable with (meth)acrylic amide and amended specification inserting " a monomer copolymerizable therewith".

These arguments are unpersuasive because there is no evidence provided showing that one skilled in the art to which this invention pertains knows which monomers are polymerizable with (meth)acrylic amide to blend with ethylene-vinyl alcohol copolymer and achieve required gas barrier properties.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 1773

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. S. Nakarani whose telephone number is (571) 272-1512. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


D. S. Nakarani
Primary Examiner
Art Unit 1773

DSN
April 13, 2007.